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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/878,269

06/12/2001

Pascal Agin

Q64839

2987

23373 7590 07/25/2007  
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EXAMINER

PHUNKULH, BOB A

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/878,269  
Filing Date: June 12, 2001  
Appellant(s): AGIN, PASCAL

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David J. Cushing  
For Appellant

**MAILED**  
JUL 25 2007  
**GROUP 2600**

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 4/9/2007 appealing from the Office action mailed 6/7/06.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

US 6,754,505

BAKER et al.

6-2004

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 45 is rejected under 35 U.S.C. 102(e) as being anticipated by Baker et al.

(US 6,754,505), hereinafter Baker.

Regarding claim 45, Baker discloses a mobile station wherein said transmission power control algorithm simultaneously controls the transmission power of at least two channels, including a data channel and a control channel (see col. 1 line 57 to col. 2 line

2), as a function of transmission quality target value, with the transmission power of said control channel offset relative to the transmission power of said data channel, said mobile station comprising:

means for applying, in the event of target value variation, anticipated variations (see col. 4 lines 53-67, col. 5 lines 1-14) of at least one of the transmission power of the data channel, the transmission power of the control channel and the offset of the transmission power of the control channel relative to the transmission power of the data channel, to obtain an anticipated variation of the data channel transmission power (see col. 1 line 57 to col. 2 line 2 and col. 2 lines 43-51).

#### **(10) Response to Argument**

It should be noted that the claimed subject matter "target value variation" is interpreted as variation from the target value. Therefore, the claimed subject "applying, in the even of target value variation, anticipated variations" should be read as "applying anticipated **variations** in the event of variation from the target value."

In response to the applicant's argument in page 9, BAKER discloses, in col. 5 lines 1-14, the following:

The selection of initial step size and the rate of change could be predetermined, or determined dynamically. For example, if the power level adjustment signalled in the acknowledgement 204 is large then the initial step size could be increased. As another example, if the MS 110 is able to determine by other means that it has a moderately high speed relative to the BS 100 a larger step size may be appropriate.

A fixed power control adjustment could be applied at the start of the transmission. This could be done even before receipt of any valid power control command, but the size and direction might be predetermined or determined dynamically, for example, using information such as the rate of change of the channel attenuation derived from receiver measurements.

Therefore, Baker discloses applying anticipated variations (step sizes) to transmission power, where the power control adjustment could be applied at the start of the transmission or even before receipt of any valid power control command. The Baker's system "anticipated" the need for power control adjustment –thus system applied anticipated variations (step sizes) to control the power at the start of the transmission or before the reception of any power control command.

In page 10 lines 5-14, the applicant argued the following:

The examiner argues that claim 45 does not recite that the anticipatory variation is applied before the variable is modified by the control loop. The examiner is apparently ignoring the word "anticipated" in claim 45. It is clear that anyone of ordinary skill in the art would interpret this term to mean that the adjustment is made before the adjustment that will be called for as a result of the use of the new target value. In any event, however, what the claim very clearly does describe is that the anticipated variation is applied in response to a variation of the target value. When the target value is varied, the system knows that when the measurement is subsequently made, an error will be found that will require variation of the transmission power. But Baker does not make its modification in response to a variation in the target value. The only change made is in response to a detected error amount.

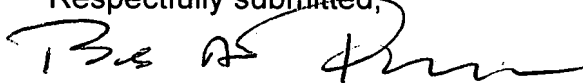
First, the examiner is not ignoring the subject matter "anticipated." As set forth in the last Office Action, the Examiner was simply coping the Applicant's argument of the previous response (see page 5 first paragraph).

Second, Baker's system "anticipated" the need of power control even before any transmission; therefore, the system applied the power control at the start of the transmission or before receipt of any valid power control command (see col. 5 lines 8-14).

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 2616

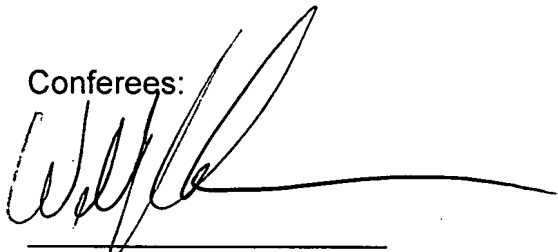
Respectfully submitted,



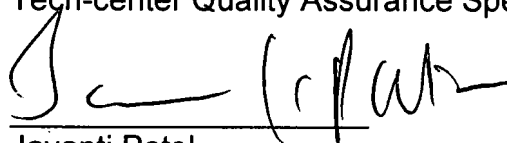
Bob A. Phunkulh  
Primary Examiner  
July 19, 2007

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